any such department or agency has failed to classify its positions in accordance with applicable standards.

SEC. 402. The Civil Service Commission shall issue such regulations and standards as may be necessary to ensure that only those employees whose work is of an acceptable level of competence receive step-increases under the provisions of section 701(a) of the Classification Act.

SEC. 403(a). Each department and agency in the executive branch of the Government employing personnel under the Classification Act shall establish a plan for granting additional step-increases in recognition of high quality performance under section 702 of that Act. Such plans shall (1) be as simple as practicable, (2) provide for delegation of authority to an appropriate management level, (3) seek to ensure fairness to all employees, and (4) provide for informing employees, at least annually, of the number of such increases granted in their agencies.

(b) The Civil Service Commission shall (1) establish such regulations and standards as it deems appropriate for such agency plans, (2) aid and advise agencies in the formulation and administration of such plans, and (3) inspect such plans and their operation to ensure that such step-increases are granted in a manner that is fair to employees and provides motivation for high quality performance.

SEC. 404. The Civil Service Commission, in prescribing regulations for higher rates of pay pursuant to section 803 of the Classification Act for employees having responsibility for supervision of prevailing-rate employees, shall give effect to the following:

(a) An irregular prevailing rate (such as the saved rate of a prevailing-rate employee not related to his current position) shall not serve to advance the salary rate of a Classification Act supervisor.

(b) The relative rate-ranges of a Classification Act supervisor and a prevailing-rate employee supervised by him shall be considered as well as the specific rate either is receiving at a given time.

(c) Due consideration shall be given to equities among supervisors as well as those between a supervisor and a prevailing-rate employee supervised by him.

PART V—REPORTS

SECTION 501. Each department and agency in the executive branch employing personnel under any of the statutory pay systems listed in section 201 shall submit annually to the Chairman of the Civil Service Commission in such form, at such time, and with such supporting information as the Chairman may prescribe, a report on the operation of that system, together with any recommendations the head of the department or agency may deem advisable. The Director of the Bureau of the Budget and the Chairman of the Civil Service Commission shall prepare and submit to the President, not later than December 31 of each year after 1962, a consolidated report, with recommendations, on the operation of each such system.

PART VI—PRIOR ORDER SUPERSEDED

SECTION 601(a). Executive Order No. 11056 of October 11, 1962, is hereby superseded.

(b) Executive Order No. 10072 of July 29, 1949, as amended, is hereby revoked.

JOHN F. KENNEDY

THE WHITE HOUSE,
January 2, 1963.

[F.R. Doc. 63-231; Filed, Jan. 7, 1963; 2:13 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

Department of Labor

Effective upon publication in the FEDERAL REGISTER, paragraph (a)(1) of §6.213 is amended as set out below.

§ 6.213 Department of Labor.

(a) *Bureau of Apprenticeship and Training.* (1) Not to exceed July 1, 1963, not more than five positions of Industrial Training Adviser (Minorities) at grades GS-11, GS-12, and one position at GS-13.

(R.S. 1753, Sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] MARY V. WENZEL,
Executive Assistant to the Commissioners.

[F.R. Doc. 63-206; Filed, Jan. 8, 1963; 8:49 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter V—Agricultural Marketing Service, Department of Agriculture

SUBCHAPTER B—EXPORT AND DOMESTIC CONSUMPTION PROGRAMS

PART 519—FRESH IRISH POTATOES

Subpart—Fresh Irish Potatoes-Livestock Feed Diversion Program DMD 3a

AUTHORITY: §§ 519.222 to 519.242 issued under sec. 32, 49 Stat. 774, as amended; 7 U.S.C. 612c.

§ 519.222 General statement.

In order to encourage the domestic consumption of fresh Irish potatoes produced in the continental United States by diverting them from normal channels of trade and commerce, the Secretary of Agriculture, pursuant to the authority conferred by section 32 of Public Law 320, 74th Congress, as amended, offers to make payment for the diversion of 1962 crop potatoes for use as livestock feed, subject to the terms and conditions hereinafter set forth. Information relating to this program and forms prescribed for use hereunder may be obtained from the following:

Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington 25, D.C.

State Agricultural Stabilization and Conservation Committees in the respective States.

County Agricultural Stabilization and Conservation Committees in the respective counties.

§ 519.223 Administration.

The program provided for in this part will be administered under the general direction and supervision of the Director, Fruit and Vegetable Division, Agricultural Marketing Service, and in the field will be carried out by the Agricultural Stabilization and Conservation Service through the Agricultural Stabilization and Conservation State Committees and Agricultural Stabilization and Conservation County Committees, hereinafter referred to as State and County Committees. Each State Committee will authorize one or more employees of the State Committee to act as representatives of the United States Department of Agriculture, hereinafter referred to as USDA, to approve applications for participation. State and County Committees or their authorized representatives do not have authority to modify or waive any of the provisions of this subpart or any amendments or supplements to this subpart.

§ 519.224 Area.

This program will be effective in such States or areas as may be designated from time to time by the Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture. Information with respect to the areas designated may be obtained from the offices listed in § 519.222.

§ 519.225 Period of program.

This program will be effective from the date of this announcement and continue until further notice, but in any event not later than April 30, 1963.

§ 519.226 Rate of payment.

The rate of payment per 100 pounds of potatoes which meet the requirements of Specification A as defined in § 519.232 and which are diverted as prescribed in § 519.231 will be 60 cents for potatoes diverted during the month of January 1963; 40 cents during the months of February and March 1963; and 30 cents until termination of the program. No payment will be made for any fractional part of 100 pounds and such quantities shall be disregarded.

§ 519.227 Eligibility for payment.

Payments will be made under this program to any individual, partnership, association, or corporation located in the continental United States, (a) who executes and files an application for participation on the prescribed forms, (b) who files a performance bond as provided in § 519.229, (c) whose application is approved, (d) who diverts fresh Irish potatoes within the State and county specified in the approved application, directly or through any other person or persons, (e) who files claim as provided in § 519.235 and (f) who complies with all other conditions precedent to payment contained in this subpart.

§ 519.228 Application and approval for participation.

Persons desiring to participate in this program must submit a written application on Form CSS-117 or ASCS-117 "Application for Participation in Fresh Irish Potato Livestock Feed Diversion Program." Each applicant must submit a performance bond as provided in § 519.229. Applications and bonds should be submitted to the County ASCS Office for the county within which the potatoes are to be diverted. Applications will be forwarded to the State ASCS Office and will be considered in the order received in the respective areas and in accordance with the availability of funds. Applicants will be notified of the approval or non-approval of their application. Approved applications may be modified or amended with the consent of the applicant and the duly authorized representative of the State Committee: *Provided,* That such modification or amendment shall not be in conflict with the provisions of this subpart or any amendment or supplements hereto. An approved applicant is hereinafter referred to as "the diverter."

§ 519.229 Performance bond.

Each applicant shall submit with his first application for participation a performance bond as further assurance that the potatoes diverted pursuant to this program will be used exclusively for feeding to livestock by methods prescribed in § 519.234. The bond shall be executed on Form CSS-119 or ASCS-119, "Performance Bond", by the principal and two individual sureties, all of whom shall agree to indemnify the USDA for any losses, claims, or payments made by USDA with respect to any quantity of such potatoes not used for livestock feed. The USDA may disapprove any bond if for any reason any surety does not in the opinion of USDA afford USDA full protection and security.

§ 519.230 Period of diversion.

The potatoes in connection with which payments are to be made must be diverted (a) after the date of approval of the diverter's application, (b) within the time period specified in the approved application, and (c) in any event on or before April 30, 1963.

§ 519.231 Definition of diversion.

Diversion of potatoes for use as livestock feed as used herein means the initial processing of potatoes for feeding to livestock by ensiling, or by cutting, chopping, slicing, gouging, crushing, or cooking to the degree that (a) a minimum of 90 percent of the potatoes which are 2 inches in diameter or larger have been seriously damaged to such an extent that they will not meet the requirements of U.S. No. 2 quality, and (b) the general appearance of the lot as a whole has been seriously damaged to such an extent that, in the opinion of the inspector, the potatoes are readily and obviously identifiable as having been initially processed and rendered unsuitable to enter into normal channels of trade and commerce as potatoes.

§ 519.232 Diversion specifications.

Potatoes in connection with which payments will be made must meet the requirements of "Specification A" which is hereby defined as meaning potatoes which are equal to or better than the quality requirements of U.S. No. 2 grade, and which have either a minimum diameter of 2 inches or a minimum weight of 4 ounces, with no tolerance being allowed for defects or undersize. Long varieties of potatoes which by clipping ends or second growth could be made to meet the quality requirements of U.S. No. 2 grade need not be so clipped to be classed Specification A but the weight of the portions which customarily would be clipped off shall be deducted in determining the weight of those potatoes in the lot which do meet the requirements of Specification A. Notwithstanding the above, after consultation with industry representatives, the Director may exclude from meeting the requirements of Specification A any additional grades and sizes which otherwise would meet the requirements of Specification A. Any such exclusion will be set forth in the application form for diversion authorization in the particular area to which it is applicable.

§ 519.233 Inspection and certificate of diversion.

Prior to diversion the potatoes shall be inspected by an inspector authorized or licensed by the Secretary of Agriculture to inspect and certify the class, quality, and condition of fresh Irish potatoes. The diverter shall be responsible for requesting and arranging for inspection sufficiently in advance of the diversion so that the inspector can be present to determine the proportion of potatoes in each lot which meet the quality requirements of Specification A. The inspector shall also verify the quantity of potatoes being diverted and that such potatoes have been diverted as defined in § 519.231. The diverter shall furnish such scale tickets, weighing facilities, or volume measurements as determined by the inspector to be necessary for ascertaining the net weight of the potatoes being diverted. The cost of inspecting, verifying the quantity, certifying that diversion has been performed, and issuing certificates thereof shall be borne by the diverter. Certificates shall be prepared on Form CSS–118 or ASCS–118 "Invoice and Certificates of Inspection and Diversion."

§ 519.234 Methods of feeding.

The feeding of potatoes to livestock shall be accomplished by the following methods:

(a) Feeding in barns or feed lots directly from troughs, bunkers, bins, or other suitable feeding receptacle;

(b) Spreading on pasture land where livestock are grazing, but the rate of spreading during any seven-day period shall not exceed 500 pounds of potatoes per head of cattle or horses or 250 pounds per head of sheep or swine; or

(c) Utilizing the potatoes for livestock feed after dehydration through a process of alternate freezing and thawing. This method may be followed only in areas suitable for this process as may hereinafter be approved by the Director, Fruit and Vegetable Division. The potatoes must be initially processed as specified in § 519.231 and in addition to other program requirements, the following special terms and conditions will be applicable:

(1) The potatoes must be spread on pasture consisting of sod or other grassland and the land must be fenced. The potatoes may not be spread on land under the Soil Bank Program or on land consisting of diverted acreage under the Feed Grain Program or the Wheat Stabilization Program. The land on which the potatoes are spread may not be plowed or otherwise cultivated until it is determined by USDA that adequate pasturing by livestock has taken place.

(2) The potatoes may be spread no deeper than 4 inches at any point.

(3) Diversion payments will be computed at the rate in effect at the time of initial processing and spreading but payment to diverters by USDA will not be made until it is determined by USDA that adequate pasturing by livestock has taken place.

(4) Spreading must take place on or before February 28, 1963.

§ 519.235 Claim for payment.

In order to obtain payment the diverter must submit a properly executed "Invoice and Certificates of Inspection and Diversion," Form CSS–118 or ASCS–118, to the State ASCS Office which approved his application. All such claims shall be filed not later than one calendar month after the termination date of the applicable diversion authorization.

§ 519.236 Compliance with program provisions.

If USDA determines that any quantity of potatoes diverted under this program was not used exclusively for livestock feed purposes, whether such failure was caused directly by the diverter or by any other person or persons, the diverter shall not be entitled to diversion payments in connection with such potatoes, shall refund to USDA any payment made in connection with such potatoes, and shall be liable to USDA for any other damages incurred as a result of such failure to use the potatoes exclusively for livestock feed purposes. USDA may deny any diverter the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if USDA determines that: (a) The diverter has failed to use or caused to be used any quantity of potatoes diverted under this program exclusively for livestock feed purposes, whether such failure was caused directly by the diverter or by any other person or persons, (b) the diverter has not acted in good faith in connection with any transaction under this program, or (c) the diverter has failed to discharge fully any obligation assumed by him under this program. Persons making any misrepresentation of facts in connection with this program for the purpose of defrauding USDA will be subject to the applicable civil and criminal provisions of the United States Code.

§ 519.237 Inspection of premises.

The diverter shall permit authorized representatives of USDA at any reasonable time to have access to his premises to inspect and examine such potatoes as are being diverted or stored for diversion, and to inspect and examine the diverter's facilities for diverting potatoes, in order to determine to what extent there is or has been compliance with the provisions of this program.

§ 519.238 Records and accounts.

If the diverter sells or otherwise disposes of potatoes diverted pursuant to this program to any other person or persons for use as livestock feed, the diverter shall keep accurate records and accounts showing the details relative to the diversion and disposition of such potatoes. The diverter shall permit authorized representatives of USDA at any reasonable time to inspect, examine, and make copies of such records and accounts in order to determine to what extent there is or has been compliance with the provisions of this program. Such records and accounts shall be retained by the diverter for two years after date of last payment to him under the program.

§ 519.239 Set-off.

If the diverter is indebted to USDA or to any other agency of the United States, set-off may be made against any amount due the diverter hereunder. Setting off shall not deprive the diverter of the right to contest the justness of the indebtedness involved, either by administrative appeal or by legal action.

§ 519.240 Joint payment or assignment.

The diverter may name a joint payee on the claim for payment or may assign, in accordance with the provisions of the Assignment of Claims Act of 1940, Public Law 811, 76th Congress, as amended (31 U.S.C. 203, 41 U.S.C. 15), the proceeds of any claim, to a bank, trust company, Federal lending agency, or other recognized financing institution: *Provided*, That such assignment shall be recognized only if and when the assignee thereof files written notice of the assignment with the authorized representative of USDA who approved the application, together with a true copy of the instrument of assignment, in accordance with the instructions on Form CSS-66 "Notice of Assignment," which form must be used in giving notice of assignment to USDA. The "Instrument of Assignment" may be executed on Form CSS-347 or the assignee may use his own form of assignment. The CSS forms may be obtained from the State ASCS Office or the Washington office shown in § 519.222.

§ 519.241 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner, shall be entitled to any share or part of any contract resulting from this program or to any benefits that may arise therefrom, but this provision shall not be considered to extend to such a contract if made with a corporation for its general benefit or to any such person acting in his capacity as a farmer.

§ 519.242 Amendment and termination.

This subpart may be amended or terminated at any time but the amendment or termination shall not be effective earlier than the date of filing with the Office of the Federal Register. No amendment or termination shall be applicable to any potatoes diverted before the effective time of such amendment or termination.

NOTE: The record-keeping and reporting requirements contained herein have been approved by, and subsequent requirements will be subject to the approval of, the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Dated: January 4, 1963.

FLOYD F. HEDLUND,
Authorized Representative of the Secretary of Agriculture.

[F.R. Doc. 63-205; Filed, Jan. 8, 1963; 8:49 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS

PART 251—ARRIVAL MANIFESTS AND LISTS; SUPPORTING DOCUMENTS

PART 342—ADMINISTRATIVE CANCELLATION OF CERTIFICATES, DOCUMENTS, OR RECORDS

Miscellaneous Amendments

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

§ 103.7 [Amendment]

In Part 103—Powers and Duties of Service Officers, the 15th and 19th Items in the list of fees of paragraph (c) of § 103.7 *Records and fees* are amended so that when taken with the introductory material they will read as follows:

(c) *Additional fees.* In addition to the fees enumerated in sections 281 and 344 of the Act, the following fees and charges are prescribed:

* * * * *

For filing appeal from, or a motion to reopen or reconsider, a decision in an exclusion or deportation proceeding, except when a motion to reopen or reconsider is made concurrently with an application for stay of deportation under Part 243 of this chapter or concurrently with an application for temporary withholding of deportation under section 243(h) of the Act, or concurrently with an application for suspension of deportation under section 244 of the Act, for adjustment of status under section 245 of the Act, or for creation of a record of lawful admission for permanent residence under section 249 of the Act. (The minimum fee of $25 shall be charged whenever an appeal or motion is filed by or on behalf of two or more aliens and all such aliens are covered by one decision.) $25.00

* * * * *

For filing application for stay of deportation under Part 243 of this chapter 25.00

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

In part 251—Arrival Manifests and Lists; Supporting Documents, § 251.2 is amended to read as follows:

§ 251.2 Notification of illegal landings.

As soon as discovered, the master or agent of any vessel from which an alien crewman has illegally landed or deserted in the United States shall inform the immigration officer in charge of the port where the illegal landing or desertion occurred, in writing, of the name, nationality, passport number and, if known, the personal description, circumstances and time of such illegal landing or desertion of such alien crewman, and furnish any other information and documents which might aid in his apprehension, including any passport surrendered pursuant to § 252.1(d) of this chapter. Failure to file notice of illegal landing or desertion and to furnish any surrendered passport within 24 hours of the time of such landing or desertion becomes known shall be regarded as lack of compliance with section 251(d) of the Act.

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Part 342 is amended to read as follows:

PART 342—ADMINISTRATIVE CANCELLATION OF CERTIFICATES, DOCUMENTS, OR RECORDS

AUTHORITY: §§ 342.1 to 342.8 issued under sec. 103, 66 Stat. 173; 8 U.S.C. 1103. Interprets or applies sec. 342, 66 Stat. 263; 8 U.S.C. 1453.

§ 342.1 Notice.

If it shall appear to a district director that a person within his district has illegally or fraudulently obtained or caused to be created a certificate, document, or record described in section 342 of the Act, a notice shall be served upon the person of intention to cancel the certificate, document, or record. The notice shall contain allegations of the reasons for the proposed action and shall advise the person that he may submit, within 60 days of service of the notice, an answer in writing under oath showing cause why the certificate, document, or record should not be cancelled, that he may appear in person before a naturalization examiner in support of, or in lieu of his written answer, and that he may have present at that time, without expense to the Government, an attorney or representative qualified under Part 292 of this chapter. In such proceedings the person shall be known as the respondent.

§ 342.2 Service of notice.

(a) *Service.* The notice required by § 342.1 shall be served personally by delivery to the respondent by an employee of the Service; or by mailing to his last known address by registered or certified mail, return receipt requested; or by delivery at the respondent's dwelling house or usual place of abode to a person of suitable age and discretion residing therein.

(b) *Proof of service.* The post office return receipt, or the certificate of the Service employee serving the notice by personal delivery, setting forth the date and manner of service, shall constitute proof of service. In the case of a mentally incompetent respondent of a child under 14 years of age, service shall be made upon his guardian, near relative or friend, and the person so served shall be permitted to appear on behalf of the respondent.

§ 342.3 Allegations admitted; no answer filed; no personal appearance requested.

If the answer admits all material allegations in the notice, or if no answer is filed within the 60-day period or any extension thereof and no personal appearance is requested within such period or periods, it shall be deemed to authorize the district director, without further notice to respondent, to find the facts to be as alleged in the notice and to cancel the certificate, document, or record. No appeal shall lie from such decision. Written notice of the decision shall be served upon the respondent with demand for surrender of the certificate, document, or record forthwith.

§ 342.4 Answer asserting defense; personal appearance requested.

If the respondent files an answer within the prescribed period asserting a defense to the allegations in the notice, or requests a personal appearance, with or without an answer, the district director shall designate a naturalization examiner to consider the case. The respondent shall be notified that he may appear in person or through counsel with any witnesses and evidence in defense of the allegations, and shall be informed of the date, time, and place for such appearance.

§ 342.5 **Conduct of examination.**

(a) *Authority of naturalization examiner.* The naturalization examiner assigned to consider the case shall have authority to administer oaths or affirmations to respondent and witnesses, issue subpoenas, present and receive evidence, rule upon offers of proof, take or cause depositions or interrogatories to be taken, regulate the course of the examination, take testimony of respondent and witnesses, grant continuances, consider and rule upon objections to the introduction of evidence, make recommendations to the district director as to whether cancellation shall be ordered or the proceedings terminated, and to take any other action as may be appropriate to the conduct and disposition of the case.

(b) *Assignment of additional officer.* The district director may, in his discretion, assign an officer of the Service to examine and cross-examine the respondent and witnesses and to present evidence pertinent to the case. The naturalization examiner designated under § 342.4 may take such part in the proceedings as he may deem necessary.

(c) *Examination.* The naturalization examiner designated under § 342.4 shall, prior to commencement of the examination, make known to the respondent his official capacity and that of any officer assigned pursuant to paragraph (b) of this section, the nature of the proceedings, his right to representation by counsel, to examine or object to evidence against him, to present evidence in his own behalf, to cross-examine witnesses presented by the Government, and shall read the allegations in the notice to respondent and, if necessary, explain them to him. The respondent shall be asked whether he admits or denies the material allegations in the notice, or any of them, and whether he concedes illegality or fraud. If respondent admits all the material allegations and that the certificate, document, or record was procured by fraud or illegality, and no issue of law or fact remains, the naturalization examiner may determine that fraud or illegality has been established on the basis of the respondent's admissions. The allegations in the notice shall be taken as admitted if respondent, without reasonable cause, fails or refuses to attend or remain in attendance at the examination. The examination shall be recorded verbatim except for statements made off the record with the permission of the naturalization examiner.

§ 342.6 **Depositions.**

Upon good cause shown, the testimony of any witness may be taken by depositions, either orally or upon written interrogatories before a person having authority to administer oaths, as may be designated by the naturalization examiner.

§ 342.7 **Report and recommendation.**

The naturalization examiner shall prepare a report summarizing the evidence, discussing the applicable law, and containing his findings and recommendations. The record, including the report and recommendation, shall be forwarded to the district director, who shall sign the report, either approving or disapproving the recommendation. If the decision of the district director is that the proceedings be terminated, the respondent shall be so informed.

§ 342.8 **Appeals.**

Should the district director find that the certificate, document, or record was fraudulently or illegally obtained, he shall enter an order that it be cancelled and the certificate or document surrendered to the Service forthwith. Written notification of such action shall be given the respondent, with a copy of the decision, findings and decision of the district director, and he shall be informed of his right of appeal in accordance with the provisions of Part 103 of this chapter.

This order shall become effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rules prescribed by the order relate to agency procedure.

Dated: January 3, 1963.

RAFMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 63-180; Filed, Jan. 8, 1963; 8:46 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 1]

PART 120—LOAN POLICY STATEMENT

The Loan Policy Statement Regulation (13 CFR Part 120, 23 F.R. 10513) as amended (24 F.R. 8325, 25 F.R. 14022, 26 F.R. 4885, 8617, and 3064, and 27 F.R. 2793) is hereby revised by deleting Part 120 in its entirety and substituting the following in lieu thereof:

AUTHORITY: §§ 120.0 through 120.4 issued under Public Law 85-536, sec. 5, 72 Stat. 385.

§ 120.0 **Statutory provision.**

SEC. 4. * * * (d) There is hereby created the Loan Policy Board of the Small Business Administration, which shall consist of the following members, all ex officio: The Administrator, as Chairman, the Secretary of the Treasury, and the Secretary of Commerce. Either of the said Secretaries may designate an officer of his Department, who has been appointed by the President by and with the advice and consent of the Senate, to act in his stead as a member of the Loan Policy Board with respect to any matter or matters. The Loan Policy Board shall establish general policies (particularly with reference to the public interest involved in the granting and denial of applications for financial assistance by the Administration and with reference to the coordination of the functions of the Administration with other activities and policies of the Government), which shall govern the granting and denial of applications for financial assistance by the Administration.

§ 120.1 **Introduction.**

This general policy statement is established by the Loan Policy Board of SBA to set forth the principles and policies which will be followed by SBA in the granting and denial of applications by small-business concerns for financial assistance. It is not intended that this general policy statement provide answers to all questions which may arise in connection with specific applications.

§ 120.2 **Business loans.**

Basic principles governing the granting and denial of applications for financial assistance:

(a) Applications for financial assistance may be considered only when there is evidence that the desired credit is not otherwise available on reasonable terms. The financial assistance applied for shall be deemed to be otherwise available on reasonable terms, unless it is satisfactorily demonstrated that:

(1) Proof of refusal of the required credit has been obtained from

(i) The applicant's bank of account,

(ii) If the amount of the loan applied for is in excess of the legal lending limit of the applicant's bank or in excess of the amount that the bank normally lends to any one borrower, then a refusal from a correspondent bank or from any other lending institution whose lending capacity is adequate to cover the loan applied for, and

(iii) Not less than two banks in cities where the population exceeds 200,000.

Proof of refusal must contain the date, amount and terms requested, and the reasons for not granting the desired credit. Bank refusals to advance credit should not be considered the full test of unavailability of credit and, where there is knowledge or reason to believe that credit is otherwise available on reasonable terms from sources other than such banks, the credit applied for cannot be granted notwithstanding the receipt of written refusals from such banks.

(2) The funds required do not appear to be obtainable on reasonable terms through the public offering or private placing of securities of the applicant.

(3) The funds required do not appear to be obtainable through the disposal at a fair price of assets not required by the applicant in the conduct of its existing business or not reasonably necessary to its potential healthy growth.

(4) The funds required do not appear to be obtainable without undue hardship

through utilization of the personal credit or resources of the owner, partners, management or principal shareholders of the applicant.

(5) V-loan, or other applicable Government financing, is not available to the applicant.

(b) It is the policy to stimulate and encourage loans by banks and other lending institutions.

(1) An applicant for a loan must show that a participation by a bank or other lending institution is not available; no immediate participation may be purchased unless it is shown that a deferred participation is not available.

(2) In agreements to participate in loans on a deferred or immediate basis such participation by SBA shall not be in excess of 90 percent of the balance of the loan outstanding at the time of disbursement.

(3) No agreement to participate shall establish any preferences in favor of the bank or other lending institution participating in the loan with SBA, except in participation agreements entered into in accordance with the Early Maturities Participation Plan set forth in Part 122 of this chapter.

(c) No loan shall be made unless there exists reasonable assurance that it can and will be repaid pursuant to its terms. Reasonable assurance of repayment will exist only where the loan is of sound value, or is adequately secured in the judgment of SBA. It will be deemed not to exist when the proposed loan is to accomplish an expansion which is unwarranted in the light of the applicant's past experience and management ability, or when the effect of making the loan is to subsidize inferior management.

(d) Financial assistance will not be granted by SBA:

(1) If the direct or indirect purpose or result of granting such assistance would be to—

(i) Pay off a creditor or creditors of the applicant who are inadequately secured and are in position to sustain a loss.

(ii) Provide funds, directly or indirectly, for payment, distribution, or as a loan to owners, partners or shareholders of the applicant which do not change ownership interests in applicant. This shall not apply to ordinary compensation for services rendered.

(iii) Refund a debt owed to a Small Business Investment Company.

(iv) Replenish funds theretofore used for such purposes.

(2) If the purpose of the applicant in applying for such assistance is to effect a change in ownership of a business unless such change will promote the sound development or preserve the existence of a small-business concern;

(3) If the financial assistance will provide or free funds for speculation in any kind of property, real or personal, tangible or intangible;

(4) If the applicant is an eleemosynary institution or other non-profit enterprise: *Provided, however,* That this provision shall not be construed to bar a loan to a cooperative if it carries on a business activity and the purpose of such activity is to obtain pecuniary benefit for its members in the operation of their otherwise eligible small-business concerns.

(5) If the purpose of the loan is to finance the construction, acquisition, conversion or operation of recreational or amusement facilities, unless such facilities contribute to the health or general well-being of the public;

(6) If the applicant is a newspaper, magazine, radio broadcasting company, television broadcasting company or similar enterprise;

(7) If 50 percent or more of the net sales of the applicant is derived from the sale of alcoholic beverages;

(8) If any part of the gross income of the applicant (or of any of its principal owners) is derived from gambling activities;

(9) If the loan is to provide funds to an enterprise primarily engaged in the business of lending or investments or to any otherwise eligible enterprise for the purpose of financing investments not related or essential to the enterprise;

(10) If the purpose of the loan is to finance the acquisition, construction, improvement or operation of real property which is, or is to be, held primarily for sale or investment: *Provided, however,* That this prohibition shall not apply to loans for the remodeling or improvement (including limited expansion) of existing commercial and industrial structures held for rental where the applicant is performing substantial maintenance and operational services in connection with such structures: *And provided further,* That no loans may be made to build or acquire buildings for investments.

(11) If the effect of the granting of the financial assistance will be to encourage monopoly or will be inconsistent with the accepted standards of the American system of free competitive enterprise;

(12) If the proceeds of the loan would be used primarily in a farming or other agricultural activity; or if the applicant is a processor of agricultural commodities and grows or produces more of the commodities processed than he purchases from others.

§ 120.3 Terms and conditions of loans.

(a) *Maturities.* The maturity of each loan shall be restricted to the minimum consistent with sound business practice.

(b) *Charges and interest on business loans*—(1) *Charges.* In deferred participation loans (those made by a bank or other lending institution in which SBA has entered into an agreement to purchase thereafter a participating share in the loan), a participation charge shall be payable by the bank or other lending institution to SBA for such agreement. The participation charges shall be on a sliding scale, depending upon the percentage of the loan which SBA is obligated to purchase. Such participation charges, which shall not be charged to borrower by the participating institution, shall be as follows:

(i) For an amount not in excess of 50 percent of the loan, $\frac{1}{2}$ of 1 percent per annum on the portion of the loan which SBA is obligated to purchase;

(ii) For an amount in excess of 50 percent of the loan but not in excess of 75 percent of the loan, $\frac{3}{4}$ of 1 percent per annum on the portion of the loan which SBA is obligated to purchase; and

(iii) For an amount in excess of 75 percent of the loan but not in excess of 90 percent of the loan, 1 percent per annum on the portion of the loan which SBA is obligated to purchase.

(2) *Interest.* (i) Deferred and immediate participation loans: Except as provided in subdivisions (iii) and (iv) of this subparagraph, interest on SBA's share of all loans in which it participates with a bank or other lending institution shall not exceed $5\frac{1}{2}$ percent per annum and where the rate of interest on the share of the loan of the bank or other lending institution is less than $5\frac{1}{2}$ percent per annum then the rate on SBA's share of the loan shall be at the same rate, but not less than 5 percent per annum. Subject to the approval of SBA, a participating bank or other lending institution may establish such rate of interest, not to exceed 8 percent per annum, on its share of a loan as shall be legal and reasonable. This subparagraph applies whether the participation is on a deferred or immediate basis and whether in the first instance the bank or SBA makes the loan in which the other purchases an immediate participation.

(ii) Direct loans: Except as provided in subdivisions (iii) and (iv) of this subparagraph, interest on all direct loans which may be made by SBA shall be at the rate of $5\frac{1}{2}$ percent per annum, except as may be otherwise required by reason of the provisions of the Servicemen's Readjustment Act of 1944, as amended.

(iii) Interest on the SBA share of a loan approved or disbursed subsequent to September 14, 1961, to a small business concern pursuant to section 7(a) of the Act, shall be at the rate of 4 percent per annum if, at the time of approval or initial disbursement, such concern agrees or has agreed to use more than 50 percent of the proceeds of such loan in the operation or establishment of its business located or to be located in:

(*a*) A Redevelopment Area designated in accordance with the Area Redevelopment Act (Public Law 87-27); or

(*b*) An area of Substantial Unemployment or an Area of Substantial and Persistent Unemployment as classified by the Department of Labor provided such area is listed as such by that Department in its publication "Area Labor Market Trends" for the month of September 1961, and in each subsequent issue of that publication until the time of such approval or initial disbursement of the loan.

The provisions of this subdivision shall not apply to assistance authorized pursuant to section 7(a)(5) of the Small Business Act, as amended (Group Corporation Loans).

(iv) Interest on SBA's share of loans, whether direct or participation loans, which may be made to Group Corporations shall be at the rate of 5 percent per annum. Subject to the approval of SBA, banks or other lending institutions may establish such rate of interest on their share of participation loans as shall be legal and reasonable.

(3) *Service fees.* (i) In immediate participation loans made and serviced by the bank, the bank may deduct only out of interest collected for the account of SBA a service fee of ½ of 1 percent per annum on the unpaid principal balance of SBA's portion of the loan, so long as the bank is servicing the loan, and provided such fee shall not be added to any amount which borrower is obligated to pay under the loan.

(ii) In deferred participation loans where SBA has purchased its share of the loan, the bank may deduct, only out of interest collected for the account of SBA, a service fee of ½ of 1 percent per annum on the unpaid principal balance of SBA's portion of the loan, so long as the bank is servicing the loan, provided such fee shall not be added to any amount which borrower is obligated to pay under the loan.

§ 120.4 **Disaster loans.**

(a) Disaster loans will be considered on an individual basis in the light of circumstances of the applicant and of the particular flood, drought, excessive rainfall or other catastrophe, or business displacement. Such loans will be made to relieve the distress and hardships attendant upon the disasters or business displacement. Loans may be made:

(1) To rehabilitate or replace property damaged or lost as a result of disasters declared by SBA, declarations of which are published in the FEDERAL REGISTER, hereinafter referred to as Physical-Loss Disaster Loans. Loans may not be made to rehabilitate or replace personal recreation or vacation cabins or facilities.

(2) To any small-business concern located in an area affected by drought or excessive rainfall, if SBA determines that the small-business concern has suffered a substantial economic injury as a result of such drought or excessive rainfall, and the President has determined that such drought or excessive rainfall is a major disaster, or the Secretary of Agriculture or his designee has found that such drought or excessive rainfall constitutes a production or economic disaster in such area, hereinafter referred to as Excessive Rainfall or Drought Disaster Loans.

(3) To any small-business concern which has been displaced by a federally aided urban renewal or highway construction program or by any other construction conducted by or with funds provided by the Federal Government, if SBA determines that the small-business concern has suffered substantial economic injury as a result of such displacement, hereinafter referred to as Displaced Business Disaster Loans. Such loans may be made as SBA determines to be necessary or appropriate to assist displaced small-business concerns in re-establishing their business, including small-business concerns displaced prior to June 30, 1961.

Small-business concerns which were established after the approval of a federally aided project are not eligible for loans under this section. Religious, eleemosynary, agricultural and nonprofit organizations are not eligible for Displaced Business Disaster Loans. Loans may not be made for replacement or rehabilitation of homes or apartment houses.

(b)(1) Interest on the SBA share of direct and participation disaster loans, excluding Displaced Business Disaster Loans, shall be at the rate of 3 percent per annum. Where a disaster loan is made for the acquisition or construction (including acquisition of site therefor) of housing for the personal occupancy of the borrower, the interest rate on both the SBA share and bank share of such loan shall be at the rate of 3 percent per annum, except where the participating institution's share represents complete conversion of a pre-disaster loan made by such institution the interest rate on the participating institution's share may be at a rate accepted as reasonable by SBA.

(2) Interest on the SBA share of direct and participation Displaced Business Disaster Loans shall be at a rate determined by SBA in conformity with the statutory formula set forth in the Small Business Act, as amended.

(c) The maximum maturity, including renewals and extensions, for Disaster Loans shall not exceed 20 years.

(d) In agreements to participate in Disaster Loans on a deferred basis, such participation by SBA shall not be in excess of 90 percent of the balance of the loan outstanding at the time of disbursement.

(e) In immediate and deferred participation loans no service fee shall be charged either to the borrower or to the participant by the party servicing the loan.

This revision of Part 120 shall become effective upon publication in the FEDERAL REGISTER without prejudice to any actions initiated prior to publication.

Dated: December 19, 1962.

JOHN E. HORNE,
Administrator.

[F.R. Doc. 63-183; Filed, Jan. 8, 1963; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 62-EA-80]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Control Zone

The purpose of this amendment to § 71.171 of the Federal Aviation regulations is to alter the description of the New York, N.Y. (La Guardia Field) control zone.

The New York (La Guardia Field) control zone is presently designated, in part, with reference to the New York (La Guardia Field) radio range and the New Rochelle, N.Y., radio beacon. The Federal Aviation Agency is decommissioning these facilities as they are no longer required for air traffic control purposes. However, procedures based on the operating components of a proposed Runway 22 ILS system require retention of the La Guardia control zone northeast extension. Therefore, action is taken herein to substitute geographical coordinates for the position of the New York (La Guardia Field) radio range and a distance established by measurement from these coordinates for the position of the New Rochelle radio beacon in the description of the New York (La Guardia Field) control zone. Controlled airspace requirements for this area will be reviewed at a later date under the CAR Amendments 60-21/60-29 implementation program.

Since this amendment is editorial in nature, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following action is taken:

In § 71.171 (27 F.R. 220-91, November 10, 1962) the New York, N.Y. (La Guardia Field) control zone is amended to read:

New York, N.Y. (La Guardia Field).

Within a 5-mile radius of La Guardia Field (latitude 40°46'29" N., longitude 73°52'20" W.) and within 2 miles either side of the 031° bearing from latitude 40°49'14" N., longitude 73°50'38" W., extending from the 5-mile radius zone to 5.5 miles NE of latitude 40°49'14" N., longitude 73°50'38" W.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on January 2, 1963.

W. THOMAS DEASON,
Assistant Chief,
Airspace Utilization Division.

[F.R. Doc. 63-164; Filed, Jan. 8, 1963; 8:45 a.m.]

[Airspace Docket No. 62-SO-47]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Designation of Transition Area

On October 10, 1962, a notice of proposed rule making was published in the FEDERAL REGISTER (27 F.R. 9954) stating that the Federal Aviation Agency proposed to designate a transition area at Columbus, Ga.

No adverse comments were received regarding the proposed amendment.

Subsequent to the issuance of the notice, parts 600 and 601 of the Regulations of the Administrator were consolidated and recodified into Part 71 [New] of the Federal Aviation Regulations, effective December 12, 1962 (27 F.R. 10352, 220-2,